

Chapter 114.

An act to abolish the Death Penalty and to regulate the manner of Applying for Pardons in certain cases.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECT. 1. The penalty of death, as a punishment for crime, is hereby abolished. Penalty of death abolished.

SECT. 2. All crimes now punishable with death shall hereafter be punished by imprisonment at hard labor for life. —crimes, how punished.

SECT. 3. Whenever any person who has been sentenced under the second section of this act shall desire to obtain a pardon, or a commutation of such sentence, he may present a written request to the justices of the supreme judicial court, in term time or vacation, asking that application therefor be made to the governor in his behalf, and shall therein set forth, specifically, the grounds on which such application for pardon or commutation of sentence is requested, and the facts which he expects to prove in support of the same, together with the names and residences of the witnesses by whom he expects to prove such facts; and with such request he shall present the affidavits of such witnesses, and a copy of all the evidence taken at the trial in which he was convicted, which evidence shall be taken and preserved, as provided in section seven, chapter one hundred and thirty-five, of the revised statutes. Pardons, how obtained.

SECT. 4. If upon examination of said request and the affidavits therewith presented, said justices shall be of the opinion that new and material evidence has been discovered which was not known, and could not, by the use of due diligence, have been obtained at the time of the trial, and which would tend conclusively to show his innocence, notwithstanding the evidence taken at the trial, they shall appoint a time and place for a hearing thereon, and order notice to be given to the attorney general and to the county attorney of the county in which such person was convicted, that they may appear in behalf of the state. —application for, how made.

Request and statement of facts

Court may appoint a hearing.

Order of notice to be given.

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Evidence deemed
pertinent.

SECT. 5. At such hearing no evidence shall be deemed pertinent except such as has been discovered since the trial, and such as relates to material facts, tending to show that such person was wrongfully or erroneously convicted, or that he is innocent.

Order of court
for pardon or
commutation of
sentence.

SECT. 6. If, upon all the evidence, said justices shall be of the opinion that such person was wrongfully convicted, or that he is innocent of the crime of which he was convicted, and that an application should be made for his pardon or for a commutation of his sentence, they shall so order, and thereupon the clerk of said court for the district in which such hearing is had shall make up a record of the proceedings had on such request, and transmit a copy thereof, and of all the papers in the case, to the governor, together with an application to the governor made by him in behalf of such person under the order and direction of said justices, for such pardon or commutation of sentence.

Governor may
grant a pardon or
commutation of
sentence.

SECT. 7. On receipt of such application, the governor may, with the advice and consent of the council, grant a pardon or a commutation of sentence, upon such conditions and with such restrictions and limitations as may be deemed proper, and to carry the same into effect may issue his warrant directed to all proper officers; who shall serve and obey it.

Approved February 21, 1876.